

RELEASE IN
PART B6

From: Chris Jennings [REDACTED]
Sent: Friday, January 22, 2010 12:12 AM
To: H
Subject: RE: What now?

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Hillary: Great to hear from you. I was just thinking of you the other day and was contemplating giving you a read on where things stand, (but then I saw how busy you are and thought the better of it). Thank you for your leadership in Haiti and throughout the world; it has just been so impressive. You make us proud every day.

As for your note: I am well aware we don't have a lot of good options here. However, for a number of reasons, I am not at all confident that Rahm is making the right call about pushing for an incremental fall-back (although some tell me he has not made a final decision about whether to go small ball and, if so, how best to proceed). At the very least, he may be making a premature course change. As you know more than anyone, going incremental creates as many policy problems as it solves. Politically, we have a myriad of problems too:

Constructing an incremental package -- for which there is no consensus now on what that would be -- takes time and distracts attention from what the Dems want to be talking about -- jobs and the economy. The stakeholders that have agreed to cuts for comprehensive care will renege on the savings produced if it is for small ball (that does not significantly reduce their uncompensated care burden). The public, who will be told that they are getting insurance reform, won't get much (because you can't do guarantee issue and secure the elimination of pre-existing conditions for all people UNLESS you have near universal coverage and/or significant subsidies) and it will not take too long for them and the media to figure that out. (It is the one thing that the press has learned from this debate -- starting from your primary campaign debate over the individual requirement). And it will be extremely difficult to find a viable legislative vehicle that won't be slowed up and eventually killed by the Republicans with poison pills galore. They certainly aren't going to give the Administration a signing ceremony if they can prevent it. Can you imagine what would happen if the Administration had what was viewed as two separate failures at health reform in one Congress?

Moreover, as we both painfully know, any health reform failure will mean that the Republicans will be the writers of history (because the victors -- not the vanquished get the pen and the paper to do so). They will get to define what was in it and why it died. And this will have implications not just about the past but the future. Republicans will say more effectively that, given the chance, the Democrats will be right back at it again with their "evil, secret fantasy to take over the health care system." They will more successfully (and inaccurately) define "it" as being a deficit busting, government take-over that will ration care and harm seniors.

I know we are all panicked about the MA race and its implications -- all with just cause. But I think we need to step back and take a breath. We can't over-read the race, which every pollster I have talked to say is not a clean, slam on comprehensive reform. The public still wants change and action in this arena.

And the House can still pass the admittedly flawed Senate but relatively decent bill if we can convince the House that it is in their best interest to do so. (It will likely take some help from the Senate leadership and some changes in a subsequent reconciliation protected legislative vehicle to fix the most problematic provisions, but this can be done). If the House does pass the Senate bill, it is important to note that there are a lot of good things to sell even THIS YEAR including: the elimination of pre-existing conditions for children, the elimination of lifetime caps, the extension of dependent coverage for kids, the provision of small business tax credits or the first down-payment on the elimination of the so-called Medicare prescription drug "doughnut hole."

I have to admit that this will be difficult because the House is so angry and scared; they are furious with the White House and the Senate. As such, it is true that that they might well let their anger cloud their judgment. Having said, I think a quick movement to an incremental approach is at least as risky as waiting for a few days, even weeks to determine if we can round up the votes (by getting groups who are increasingly, and perhaps constructively for us, fearing that nothing will happen - AND lobby the House Dems hard). (Frankly, between you and me, I suspect that if we fail to do go for the Senate package, we may well not get any bill enacted this year, no matter how hard we try).

So, my initial advice (and I haven't talked to Rahm in a couple of weeks) is to step back and see if the increasing perception that we may get nothing haunt people who were being difficult in the Senate-House negotiations to largely accept the Senate bill. Use the SOTU to focus on the consequences of inaction in more compelling ways to fuel this sentiment a bit more. If we need to make some relatively small changes to secure final necessary votes, I would argue to limit them as much as possible. Make the Senate leadership guarantee to the House, though, that these policies will be passed by the Senate in a reconciliation package. However, add them as riders to a hopefully much more popular economic development/jobs reconciliation bill. In other words, don't make the necessary changes visible; hide them on a bigger vehicle that has to be enacted in any case.

Having said all the above, of course, I am more than willing to help produce and sell an incremental package if all the powers that be conclude we have no other option. I just have to be honest with you about my assessment about where this now stands and could go. If we go that route, the policies should be designed to be politically popular, policy viable, administratively feasible, relatively inexpensive and paid for, and easy to sell to outside groups/experts who would validate as a step forward. It should be a series of policies that are popular enough to be able to conceivably attract 60 votes, but under any circumstances not vulnerable to failing to get at least 50 votes in a reconciliation context. They must be relatively easily understood and simple to communicate. Options include (and can be stand alone or collective) and probably should be designed to cost less than \$200 billion over 5 years (because the reconciliation bill sunsets provisions after this period of time):

- 1) Some simple insurance reforms that would not mess up the market - things like banning retrospective rescissions, the elimination of pre-existing conditions for children, the extrication of lifetime caps, and the extension of dependent coverage offerings for kids;
 - 2) A Federal grant and waiver program to get states to do comprehensive reform themselves (with some consumer protection minimum requirements). Senator-elect Brown would have a hard time opposing this (since he said states should be supported to take the lead - like MA did);
 - 3) A parents mandate (individual requirement) to cover their kids with the help of tax credits (and help from Medicaid/CHIP) to obtain private insurance coverage OR through a state public program (like Medicaid);
 - 4) A Medicaid or CHIP expansion to parents;
 - 5) A reinsurance payment system for certain targeted populations OR federally-sponsored high risk pools to cover uninsurable populations. This might be a policy that is designed for the 55-64 population.
 - 6) The provision of a targeted small business tax credit might be a popular provision, (though it probably wouldn't get much new coverage);
 - 7) Something more for seniors - perhaps a further down-payment on the Medicare doughnut hole coverage gap OR some modest steps toward home and community based care (and/or spousal impoverishment protections) (OR whatever AARP will sell and give us cover for).
- NOTE: Remember, the seniors disproportionately vote in mid-term elections and hate health reform more than any other cohort by far;

8) Something on prevention/wellness - maybe the mandatory Trust Fund down-payment

9) Some "game-changer" delivery and financing reforms that can be argued to secure value over volume and quality over quantity. This would probably include the Orszag-loved Independent Payment Assessment Board (IPAB); and

10) Some specific offsets to pay for the bill, primarily through cherry-picked and downsized savings from old packages; mostly this would come from Medicare; Medicare managed care programs would be biggest contributors.

We probably could not do all of these provisions, even downsized. Moreover, we would like to narrow the message perhaps to first steps on insurance reforms, kids, seniors, and small businesses within a reformed delivery system that focuses on prevention/wellness.

At any rate, this is probably more than you want, but I wanted to give you my sense of the state of play. Hope you find helpful. Always at your service. If you want to talk re this, don't hesitate to give me a call on my cell - 202 550 8677. Best.

Chris

-----Original Message-----

From: H [mailto:HDR22@clintonemail.com]
Sent: Thursday, January 21, 2010 8:22 PM
To: Chris Jennings
Subject: What now?

Chris--

What's Plan B? Rahm asked me for ideas about the ingredients of a new compromise. Are you talking w the White House? Any ideas I could advocate for the cause? I'd love to help but have tried to stay out up until now and so am not up to speed (an under-statement!).

Hope you and your family are well and that 2010 is a great year for you and yours.

All the best, Hillary